

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE M.H.S. ANSARI

WRIT PETITION No. 6593 of 1995

Between:

The Management of Singareni Collieries Co., Ltd.,
rep. by its General Manager, Bellampalli, Adilabad District,
Bellampalli Area.

..... PETITIONER

AND

- 1 The Industrial Tribunal-I, rep. by its Presiding Officer.
Chandra Vihar, M.J.Road, Hyderabad.
- 2 The Workmen of Singareni Collieries Co., Ltd., Bellampalli,
Adilabad Dist., rep. by their Joint Secretary, A.P.
Collieries Mazdoor Sangh (INTUC), Bellampalli,
for Sri Ballaboina Rajam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of WRIT OF CERTIORARI after calling for the records from the first respondent in I.D.No. 59 of 1989 and quash the Award passed therein dated 28-2-1994.

Counsel for the Petitioner: Mr. K.SRINIVASA MURTHY

Counsel for Respondent No.1: G.P. FOR LABOUR

Counsel for Respondent No.2: Mr.G.VIDYASAGAR.

The Court made the following :

ORAL ORDER:

Having heard the learned counsel for the respective parties, this Court is of the view that the impugned Award cannot be sustained.

The question referred to the learned Tribunal was whether the termination of service of the respondent employee without following the Age Retirement Rules was justified?

It is the case of the employer that age as entered in the service record of the employee was declared by the employee and that based thereon notice was issued to the employee on 1-2-1988 vide their letter dated 13-2-1997 intimating that the employee will be retired on 1-2-1988 on attaining the age of superannuation. The said notice is an advance notice of retirement relating to superannuation and not termination. The respondent employee did not question the said notice nor dispute his age.

Learned Tribunal proceeded on the basis of the Retirement Rules framed in the year 1960 and extracted the relevant Rules (iv) and (vi) which stipulate that the age should be determined in accordance with the Rules stated in the Circular and the work should be completed within a period of twelve months from the date of the Circular. Rule (vi) provides that in the case of literate employees, date of birth shall be entered in the record of service in the employee's own hand writing and in the case of illiterate employees as the petitioner herein, the declared date of birth shall be recorded by a senior employee and witnessed by another employee. It does not appear from the evidence on record that any dispute was raised by the employee concerned at any time during the tenure of his service with regard to date of birth recorded in the service records. Only after his superannuation, dispute was raised which has been referred to, and the Tribunal based upon the Age Retirement Rules

formed the view that the management did not complete determination of age within a period of twelve months from the date of issue of the Circular. This conclusion overlooks the fact that at no time any dispute has been raised by the employee with regard to his correct date of birth as entered in the service record. Judged in the light of the parameters prescribed for judicial review, the Award under challenge cannot be sustained.

Accordingly, the writ petition is allowed setting aside the impugned Award.
No order as to costs.

(M.H.S.ANSARI, J.)

17th February 2005.

ARS

Rule Nisi as above is made absolute.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday the Seventeenth Day of February Two Thosuang and Five.

To

- 1 The Registrar, Industrial Tribunal-I, Chandra Vihar, M.J.Road, Hyderabad.
2. Two CD copies.